Remarks

Applicants have reviewed this Application in light of the final Office Action mailed May 13, 2005. Applicants respectfully request reconsideration and allowance of all pending claims.

Dependent Claims 10 and 11 Satisfy the Requirements of 35 U.S.C. § 112 Para. 4

The Examiner rejects dependent Claims 10 and 11 under 35 U.S.C. § 112 para. 4. According to the Examiner:

> Claim 10 is a dependent claim which fails to further limit independent claim 1 on which it depends. It is well known in the art that lexical analysis is the process of taking an input string and producing a sequence of tokens. Since the data stream is lexically analyzed according to claim 1 part c, it is assumed that a series of tokens has been produced as a result. Claim 11 is also rejected for depending on claim 10.

The M.P.E.P. states, "The test as to whether a claim is a proper dependent claim is that it shall include every limitation of the claim from which it depends (35 U.S.C. 112, fourth paragraph) or in other words that it shall not conceivably be infringed by anything which would not also infringe the basic claim." M.P.E.P. ch. 608.01(n) (Rev. 2, May 2004). The M.P.E.P. further states:

> A dependent claim does not lack compliance with 35 U.S.C. 112, fourth paragraph, simply because there is a question as to (1) the significance of the further limitation added by the dependent claim, or (2) whether the further limitation in fact changes the scope of the dependent claim from that of the claim from which it depends. The test for a proper dependent claim under the fourth paragraph of 35 U.S.C. 112 is whether the dependent claim includes every limitation of the claim from which it depends. The test is not one of whether the claims differ in scope.

Applicants respectfully submit that dependent Claim 10 includes every limitation of independent Claim 1 and that dependent Claim 11 includes every limitation of independent Claim 1 and dependent Claim 10. Applicants note that the Examiner does not assert otherwise. For at least these reasons, dependent Claims 10 and 11 satisfy the requirements of 35 U.S.C. § 112 para. 4. Applicants therefore respectfully request the Examiner to withdraw the rejection of dependent Claims 10 and 11 under 35 U.S.C. § 112 para. 4.

Independent Claims 1 and 13-16 are Allowable over *Fermoyle*

The Examiner rejects independent Claims 1 and 13-16 under 35 U.S.C. § 102(a) as being anticipated by *Firm Offers Free Tool to Fight "Love You" Virus* by Ken Fermoyle ("*Fermoyle*"). *Fermoyle* merely discloses an e-mail content filtering program that scans incoming messages for key words and denies or quarantines the messages.

In contrast, independent Claim 1 of this Application recites

A method of detecting script language viruses in data streams comprising:
preparing language description data corresponding to at least one script language;
preparing detection data for viral code corresponding to the script language virus; and
lexically analyzing a data stream using the language description data and the detection data to detect the viral code.

Independent Claims 13-16 are similar to independent Claim 1.

The Examiner asserts that lexical scanning in *Fermoyle* can be properly considered *lexically analyzing a data stream*, as recited in independent Claim 1. Applicants respectfully disagree with the Examiner. *Fermoyle* does not disclose, teach, or suggest *preparing language description data corresponding to at least one script language*, as recited in independent Claim 1. Moreover, *Fermoyle* does not disclose, teach, or suggest *preparing detection data for viral code corresponding to the script language virus*, as recited in independent Claim 1. Therefore, even assuming for the sake of argument that lexical scanning in *Fermoyle* could be properly considered *lexically analyzing a data stream*, as recited in independent Claim 1, *Fermoyle* would still fail to disclose, teach, or suggest lexical scanning of *a data stream using the language description data and the detection data to detect the viral code*, as recited in independent Claim 1.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal*

Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. ch. 2131 (Rev. 1, Feb. 2003) (quoting *Verdegaal Bros.*, 2 U.S.P.Q.2d at 1053). Moreover, "the identical invention must be shown in as complete detail as is contained . . . in the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. ch. 2131 (Rev. 1, Feb. 2003) (quoting Richardson, 9 U.S.P.Q.2d at 1920). Furthermore, "[t]he elements must be arranged as required by the claim." *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. ch. 2131 (Rev. 1, Feb. 2003) (quoting *In Re Bond*, 15 U.S.P.Q.2d at 1566). As shown above, *Fermoyle* fails to disclose, either expressly or inherently, each and every limitation recited in independent Claim 1, as required under governing Federal Circuit case law and the M.P.E.P.

For at least the above reasons, Applicants respectfully request reconsideration and allowance of independent Claims 1 and 13-16 and all their dependent claims.

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Conclusion

For at least the foregoing reasons, Applicants respectfully request allowance of all pending claims.

If a telephone conference would advance prosecution of this Application, the Examiner may contact Luke K. Pedersen, Attorney for Applicants, at 214.953.6655.

Enclosed are a check in the amount of $790.00 for filing the Request for Continued Examination and a check in the amount of $1,020.00 for a three-month extension of time. The Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: November 14, 2005

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